REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-6, 8, 10-14 and 16 are presently active, Claims 7, 9, 15 and 17 are canceled without prejudice, and Claims 1, 8, 10-11 and 16 are amended. No new matter is added.[1]

In the outstanding Office Action, Claims 1-17 were rejected under 35 U.S.C. § 102(e) as anticipated by Aramata et al. (U.S. Pub. No. 2003/0215711). Claims 1-4, 7-8, 11-13 and 15-17 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1, 5, 9 and 14-15 in U.S. Patent Application No. 11/175,294.

Regarding the rejection of Claims 1-17, Applicants respectfully submit that the rejection is overcome because, in Applicants' view, amended independent Claims 1 and 11 patentably distinguish over Aramata et al. as discussed below.

Claim 1 recites, *inter alia*, "a negative electrode containing a negative electrode active material including carbonaceous particles, ***said carbonaceous particles each including silicon oxide phases dispersed therein***, said silicon oxide phases each including an Si phase dispersed therein."

Since the Si phase can intercalate and deintercalate a large amount of lithium, the capacity of the negative electrode active material can be increased (Specification at page 8, lines 3-6). Expansion and shrinkage by intercalation and deintercalation of a large amount of lithium in the Si phase can be lessened by dispersing the Si phase in the silicon oxide phases and the carbonaceous particles to prevent pulverization of carbonaceous particles, and the carbonaceous material phase can maintain a high conductivity as the negative electrode active material (Specification at page 8, lines 6-12). On the other hand, the SiO_2 phase is strongly bond with the Si phase, and functions as a buffer for preventing pulverization of Si phase, so

[1] See, for example, the specification at page 7, lines 20-25, page 14, lines 14-20, page 15, lines 11-13 and page 16, lines 13-17.

that it contributes greatly to maintenance of the particle structure (Specification at page 8, lines 13-16).

Instead, Aramata et al. describes that particles of the structure having silicon crystallites dispersed in a silicon compound are coated on their surfaces with carbon (Aramata et al. at paragraph (0037)). The carbon coating is formed by chemical vapor deposition (Aramata et al. at paragraph (0038)-(0040)). That is, in Aramata et al., the silicon compound having silicon crystallites dispersed herein is merely ***coated on their surfaces*** with carbon. Since the carbonaceous material phase (i.e., carbon) is provided only on the surface of the silicon compound, the conductivity of the negative electrode active material is easily lowered.

Thus, Aramata et al. fails to disclose "a negative electrode containing a negative electrode active material including carbonaceous particles, ***said carbonaceous particles each including silicon oxide phases dispersed therein***, said silicon oxide phases each including an Si phase dispersed therein," as recited in Claim 1.

Similarly, Aramata et al. fails to disclose "[a] negative electrode active material for nonaqueous electrolyte secondary battery, including carbonaceous particles, said carbonaceous particles each including silicon oxide phases dispersed therein, said silicon oxide phases each including an Si phase dispersed therein," as recited in Claim 11.

Accordingly, independent Claims 1 and 1 patentably distinguish over Aramata et al. Therefore, Claims 1 and 11 and the pending Claims 2-6, 8, 10, 12-14 and 16 dependent from Claims 1 and 11 are believed to be allowable.

Finally, regarding the provisional double-patenting rejection, Applicants submit that a terminal disclaimer can be filed, if the claims in the present application and the claims in the co-pending Application No. 11/175,294 remain obvious in view of each other at the time of allowance of either of these applications. Indeed, M.P.E.P. § 804.02 IV states that, prior to

issuance, it is necessary to disclaim each one of the double patenting references applied. Hence, Applicants respectfully request that the examiner contact the undersigned should the present arguments be accepted and should the case be otherwise in a condition for allowance. At that time, a terminal disclaimer can be supplied to expedite issuance of this case.

Consequently, in view of the present amendment and in light of the above discussions, it is believed that the outstanding rejection is overcome, and the application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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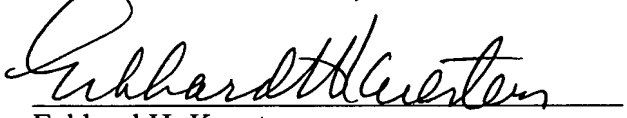

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